



Entered on Docket  
October 29, 2007

Rim Ry

Hon. Linda B. Riegle  
United States Bankruptcy Judge

**LEWIS AND ROCA LLP**  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

Susan M. Freeman AZ State Bar No. 004199  
Email: [sfreeman@lrlaw.com](mailto:sfreeman@lrlaw.com)  
Rob Charles NV State Bar No. 006593  
Email: [rcharles@lrlaw.com](mailto:rcharles@lrlaw.com)  
John Hinderaker AZ State Bar No. 018024  
Email: [jhindera@lrlaw.com](mailto:jhindera@lrlaw.com)

*Attorneys for USACM Liquidating Trust*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

## USA COMMERCIAL MORTGAGE COMPANY,

## USA CAPITAL REALTY ADVISORS, LLC,

**USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC.**

**USA CAPITAL FIRST TRUST DEED  
FUND, LLC.**

USA SECURITIES, LLC,  
Debtors.

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

Date of Hearing: October 15, 2007  
Time of Hearing: 9:30 a.m.

### Affects:

- All Debtors
  - USA Commercial Mortgage Company
  - USA Capital Realty Advisors, LLC
  - USA Capital Diversified Trust Deed Fund, LLC
  - USA Capital First Trust Deed Fund, LLC
  - USA Securities, LLC

1           **ORDER SUSTAINING THE USACM LIQUIDATING TRUST'S OBJECTION TO**  
 2           **CLAIM NO(S). 107275-02505 FILED BY JOSEPH W. AND VICTORIA SABIA AS**  
 3           **IMPROPERLY ASSERTING SECURED STATUS**

4           Joseph W. and Victoria Sabia filed Proof of Claim No(s). 107275-02505, which  
 5           asserted a secured claim(s) against USA Commercial Mortgage Company ("USACM").

6           The USACM Liquidating Trust (the "USACM Trust") filed its an Objection [DE  
 7           4281] (the "Objection"), which challenged Joseph W. and Victoria Sabia's assertion of  
 8           secured status and sought to have the Court reclassify Joseph W. and Victoria Sabia's  
 9           claim(s) as a general unsecured claim(s).

10          Simultaneously with the Objection, the USACM Trust filed its Motion for  
 11         Summary Judgment Regarding (1) Responses to the USACM Trust's First Through  
 12         Thirty-Third Omnibus Objections to Claims Asserting a Secured Status; (2) Responses to  
 13         USACM Trust's First through Third Omnibus Objections to Claims Asserting a Priority  
 14         Status; and (3) Newly Alleged Secured and Priority Claims (the "Motion") [DE 4291].  
 15          The Motion sought summary judgment on the Objection and asked that the Court sustain  
 16          the Objection.

17          Appropriate notice of the Objection and the Motion was given to Joseph W. and  
 18          Victoria Sabia.

19          Joseph W. and Victoria Sabia did not respond to the Objection or the Motion.

20          At a hearing on October 15, 2007, the Objection and the Motion came before the  
 21          Court. Joseph W. and Victoria Sabia did not appear at the hearing to contest the Objection  
 22          or the Motion.

23          Based upon the foregoing and good cause appearing,

24           **IT IS HEREBY ORDERED:**

- 25          1.       Granting the Motion [DE 4291] as it relates to Proof of Claim No(s).  
 26          107275-02505 filed by Joseph W. and Victoria Sabia;  
             2.       Sustaining the Objection [DE 4281]; and

1           3.       Reclassifying Proof of Claim No(s). 107275-02505 filed by Joseph W. and  
2 Victoria Sabia as a general unsecured claim(s) subject to further objection by the USACM  
3 Liquidating Trust.

4                          # # #

5 PREPARED AND SUBMITTED:

6 **LEWIS AND ROCA LLP**

7 By: /s/ RC (#0006593)  
8                          Susan M. Freeman (pro hac vice)  
9                          Rob Charles  
10                         John Hinderaker (pro hac vice)  
11                         *Attorneys for USACM Liquidating Trust*

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

2 In accordance with Local Rule 9021, the undersigned certifies:

- 3    The Court waived the requirements of LR 9021.
- 4    I have delivered a copy of this proposed order to all counsel who appeared at the  
5 hearing, any unrepresented parties who appeared at the hearing, and any trustee  
6 appointed in this case, and each has approved or disapproved the order, or failed  
7 to respond, as indicated below:
- 8    approved the form of this order;
- 9       waived the right to review the order;
- 10      failed to file and serve papers in accordance with LR 9021(c); and/or
- 11      failed to sign and return this proposed order within five (5) business days  
12       in accordance with LR 9021(b).
- 13    I have delivered a copy of this proposed order to all attorneys and unrepresented  
14 parties who appeared at the hearing regarding this matter and/or who filed a  
15 written objection and all have either approved the form of this order, waived the  
16 right to review the order, failed to file and serve papers in accordance with LR  
17 9021(c) and the following have disapproved the form of the order.
- 18    No opposition was filed and no other party or counsel appeared at the hearing.

19 **LEWIS AND ROCA LLP**

20 By: /s/ RC (#0006593)

21 Susan M. Freeman

22 Rob Charles

23 *Attorneys for USACM Liquidating Trust*

24

25

26